Regn II of 05

File No. 10 of 04-05
Serial Nos. 1 to 6

1905.

# GENERAL AND REVENUE SECRETARIAT.

(Legislation)

*Part A: Manuscript*
*for*
March 1905

**Serial Nos.** 1 to 6 + enclosures

Forms Ref<sup></sup>
Regulation IV of 1903.

G.R.S. 111 1904-05

GENERAL AND REVENUE SECRETARIAT.

( Legislation )

March 1905

NOTES.

File No. 10 of 1904-05

FILE HEADING.

Amendment of Section 16 B of the Regulation IV of 1903, amending the Mysore Chief Court Regulation I of 1884.

From

The Registrar of the Chief Court of Mysore.

No. 1128/73 Dated 18/8/04. Received 15/8/04.

| Diary No. | Enclos. | Spare Copies. | Serial No. |
|---|---|---|---|
| 444. | — | — | 1 |

BRIEF ABSTRACT OF LETTER.

Requests that the Section may be amended by substituting the words "Civil & Criminal Revision Cases" for "applications for revision in civil & criminal cases" and by deleting from it the words "or such application", so as to empower a single judge, under the Section, to dispose of all Revision petitions & cases, Civil & Criminal, without limiting his power to cases in which there have been "applications for revision" by the parties.

NOTES AND ORDERS.

Sent for orders

29/8/04. NM 29.8.04

Dated 22/6/03

The Chief Court Registrar's letter No 6924/253

should be complied with. Draft 30/8

1. Under Sec 16B of Regulation No IV of 03

Notes—First sheet.

MGCPB—5,000—18-5-04

Serial No.

a Single Judge of the Chief Court ~~have~~ has been disposing of Civil and Criminal cases for revision. The question now raised by the Chief Court is whether Sec 16B is limited only to Civil & Criminal applications for revision or whether it includes cases in which revision proceedings can be initiated by the Chief Court itself on perusal of calendars or references made under Section 438 of the Criminal Pro code.

2. Before Sec 16B was enacted a Single Judge used to dispose of the latter class of cases ~~if~~ in which he found no reason to interfere with the proceedings of the lower Courts. Otherwise they used to be referred to a Bench of two Judges.

3. Sec 16B of Reg. No IV of 03 merely left it to the discretion of the Judge to refer any applications for revision to a Bench of two Judges. If therefore, Sec 16B is applicable to cases in which no applications are made, the original rule of practice has to be relied on

4. Although the heading to Sec 16B

NOTE—Contn. sheet.

MGCP B—10 000—19-5-04

Serial No.

employs the expression "revision cases", the Section itself is obviously restricted to revision cases in which applications shall have been made. The law as contained in the Section was proposed by the Chief Court itself (vide its letter) ; and was referred to in para 4 of our letter to the Resident. Hence there can be little doubt that the section in question is limited not applicable to revision cases of the second description.

5. Since the Amending Regulation No IV of 1903 had for its object the attainment of a speedy disposal of cases and, with that view, provided for enlarged powers in Section 16B, the original rule of practice under which a single Judge could dispose of cases of the second class must be regarded as being still in force. It is not touched by Sec 16B at all. Under that rule, the proceedings of a single Judge (subsequent to the enactment of Section 16B) are valid so far as they are

NOTE—Contn. sheet.

MGOPB—10 000—19-5-04

Serial No.

Consistent with A. or in the words, the proceedings of such Judge modifying or reversing the orders of the lower Courts cannot be valid.

6. Hence, without further amendment, a Single Judge of the Chief Court cannot Exercise the powers vested in him by Sec 16 B as regards the Second class of cases.

7 The question for determination is whether there is no difference whatever between the two classes of cases as the Chief Court seems to view. (vide last para of the letter under disposal). Revision on an application and revision on one's own motion are two different things; and a more limited or circumscribed power in the case of the Second seems more Conducive to justice.

I humbly share this view 6 3.10.1904

Durga Charan Ghosh 30/9

8. By the Chief Court regulation No 4 of 1903, a Judge may hear applications for revision in Civil & Cr. Cases; but how

Sec 16B of

NOTE—Contn. sheet.

General and Revenue Secretariat.

File No. 10 of 1904-05

Serial No.

Please add a reference Civil Matters. Done 4/10

they want power to dismiss cases without applications and motion

Submitted to the Diwan Saheb and the Ld Councillor

Revenue Council matters

3.10.1904

750 4-10-04

9. No distinction is intended to be made between one kind of revision proceedings & another, ie between those initiated on petition & those initiated suo motu. Abbreviations for revision Civil & Criminal cases was intended to stand for "Revision cases, Civil & Criminal". In other words it was not intended that certain revision matters should be dealt with under section 16 B & others under the Rules of Practice of 1888 &c. That being so the question as

NOTE—Contn. sheet.

General and Revenue Secretariat.

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the suppression
whether abolition for
revision of civil or criminal cases
includes matters taken up
by the High Court suo motu
or without a petition. On
this point the High Court
as well as the Registrars
also, have expressed no
opinion. Mr. Collett merely asks
that the section be amended
"if the Government of opinion
that this (the non-existence of
any ~~need for~~ direction)
is not in accordance with
the wording of the section". In
these circumstances, I am not
satisfied that any legislative
action is called for. This may
be explained to the High Court
and an enquiry made as to
whether they consider an



MGCPB—10,000—19-5-04

General and Revenue Secretariat. | File No. 10 of 1904-05

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amendment of the
Section would be desirable -
If we are to make an
amendment, it should be
in terms of the Council
Bill & have attached to
the Registration Letter. The Chief
Court is not in favour
of any Restriction. Telegram 4/10/04.
- Even in one of restriction & the
whose wording (enclosure to Registrar's letter of 22nd June 05)
Chief Court does not approve the
Section that cases other than
Petitions are excluded by the
Section - If the Chief Court
Proposal contemplated no
differentiation, we could
not, in legislating in
accordance therewith, have
intended any -

4/10/04

5.10.1904

20.5.7
5.10.04

NOTE—Contn. sheet.]

General and Revenue Secretariat. | File No. 10 of 1904-05

Serial No.

2201

Let the enquiries be made - if the interpretation suggested is reasonable acceptable I would not go so soon to the Govt of India for another alteration

6.X.04

12 Draft accd
K = B.K.V
8.10.1904

8-10-04

Draft subd - But up amplified copy a
11-10-04 for instructions as this one - [illegible] copies
13 duly amplified draft subd after orders. K.S. Chandrasekhara Aiyar, 2 Room
11.10.04 15-10-04

14 Passed K = B.K.V
15-10-1904

2. To the Registrar of the Chief Court No. 3582 Leg 10.2.
& the 21st Oct 1904.

States that no distinction was intended to be made between one kind of revision proposed and another i.e. between those initiated on petition and those initiated suo motu by enquiries

General and Revenue Secretariat. | File No. 10 of 1904-05

Serial No.

Whether in the opinion of the Chief Court an amendment of the section is indispensable.

3 Down the Registrar of the Chief Court No. 2670/152 dated the 5th November 1904.

States that the judges are of opinion that an amendment of Sec 168 is necessary

8 Legal (15) Member/Councillor's note as to how the amendment should read is attached to the registered letter. S.R.V.I.

IKS-Dte 17/11/04

KBL 17-11-04

16 Put up a draft letter in the terms suggested by the Ch Court & a letter to the Dep.t explaining the necessity for it as in the last para of the Chief Court's letter of 16 Aug 1904.

K.S. Bhandara Secretary Legislative Dept

17. Draft KBL Dte 15/11/04 KBL 19-11-04

19-11-04

Draft submitted to the Hon'ble Sahib thro' the 1st Councillor

B.K.V 19.11.1904

1063 21-11-1904

18 I am not satisfied that an amending Regulation

NOTE.—Contn. sheet.

General and Revenue Secretariat.

File No. 10 of 1904-05

Serial No.

it indispensable. Since however the Chief Court think otherwise, I defer to their opinion - The drafts are suitable and may be approved - C: 6.5

22-11-04

19. Approved Valgaum 15.XII.04 (illegible)

29-38/22.11.04

Draw 17/12

20 To the Registrar for circulation C = B.K.V. 16.12.1904

21. The draft amendment may be approved

22/12

NOTE—Contn. sheet.

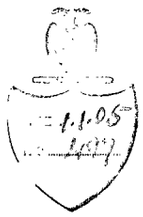
MGCPB—10,000—19-5-04

*Submitted to His Highness.*

22. The annexed amending draft Regulation is intended to remove the doubts which have arisen as to the powers of a single Judge of the Chief Court to dispose of Civil and Criminal Revision cases initiated suo moto, and not on a petition. The draft as well as the letter to the Residency applying for the sanction of the Government of India may be approved.

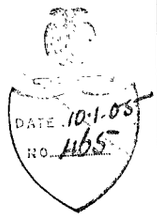
31.XII.04

**Record of Case submitted for the orders of His Highness the Maharaja.**



## *Subject.*

Draft of a Regulation to further amend Section 16B of the Mysore Chief Court Regulation.



## *Order.*

3. Approved

~~KRW~~

7/1/05

24. Approved

7.1.05

General and Revenue Secretariat.

No. 10 of 1906

Serial No.

4. To the Govt. of India Despatch No. 1050 dt. 11/4/05 — Forwards a draft of amendment of Sections 4 & 8 of Reg IV of 1903 & requests him to obtain the sanction of the Govt. of India for it's promulgation

5. From The J. A. Resdt. No. 1063, dt. 21-2-05. States that the Govt. of India have no objection to the passing of the draft Regn. into law and requests that a copy of the Regulation as passed may be forwarded for information.

25. The Draft Regulation has now to be submitted to His Highness for formal sanction. Two fair typed copies ~~are~~ of the draft Regulation are submitted herewith.

SR 24/2 24/2/05

Rd. Sheristadar explained to 24.2.05

26. Submitted to the Dewan Saheb through the Councillor 25.2.1905

2047 25-2-05.

27. Seen. May be passed and promulgated. Rs. 25 26/2/05.

27.2.1905

5033 27.2.05

NOTE—Contn. sheet.

MGCPB—10,000—31-8-04.

Submitted to His Highness.
for formal approval upon
the Regulation is framed
gazetted

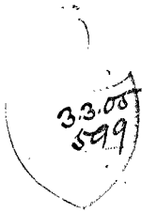
28.II.05

**Record of Case submitted for the orders of His Highness the Maharaja.**

## *Subject.*

A Regulation to further amend Section 16B of the Mysore Chief Court Regualation;-for final sanction.

## *Order.*




29. Sanctioned

~~KRW~~

2/3/05

30. Submitted

3. III. 05

31. [illegible] = B.N.V.

2-3-1905

[illegible] draft

Serial No.

Submitted with a draft of the usual order for promulgation of the Regulation which will be No II of 1905.

S.S. 6/3 S.N. 7/3/05

Hrs 7.3.05

6. Govt ~~Proceedings~~ order No. J 2578, dated the 10th March 1905, to the Compiler, Mysore Gazette.

~~Orders the forwards for promulgation, as Reg. No II of 1905, by publication in 3 successive issues of the Mysore Gazette,~~

Orders the promulgation of the above draft Regulation as Regulation No. II of 1905.

Endorsement No. 6 to the Registrar, Chief Court, No. J 2579, dated the 10th March 1905.

Forwards copy of Serial No. 6 for information



MGCPB—20,000—1-11-04.

73 8(1)(1)1 File No 10. Bangalore 16th August 1904

From,

J. A. Rajaratna Mooddeliar Esquire
Registrar, Chief Court of Mysore

To,

B. K. Venkatavaradanger Esquire,
Secretary to the Government of
Mysore, Genl & Rev: Depts

Sir,

A doubt having arisen as to the scope of Section 16 B of Regulation IV of 1903, amending the Mysore Chief Court Regulation 1884, I am directed to submit the following for the consideration of Government.

Prior to November 1903 when the said Regulation IV of 1903 was passed the powers of a single Judge were regulated by a Rule of the Court framed under Section 19 of the Chief Court Regulation. The Rule is quoted below.

"The powers vested in the Chief Court may be exercised by one of the Judges of the said Court in the following cases.

(1) Revision of Calendars and proceedings of any Criminal Court subordinate to the

Chief

Chief Court under Rule of Practice No. 58 dated 1st September 1892

(2) Applications for suspension of sentence or for release of Accused on bail, pending disposal of appeal or application for revision

(3) Proceedings and Reports submitted for orders under Sections 123 and 124 of the Criminal Procedure Code.

(4) Disposal of questions referred under Section 185 of the Criminal Procedure Code.

(5) Orders under Sections 427, 498, 526 and 526 A of the Criminal Procedure Code.

(6) Power to call for records under Section 435 of the Criminal Procedure Code and Section 622 of the Civil Procedure Code.

(7) Orders under Section 505, Civil Procedure Code

(8) Enquiry under Section 593, Civil Procedure Code

(9) Applications for stay of execution of decrees, or for stay of further proceedings, pending disposal of appeal or application for revision

(10)

(10) Admission of petitions and appeals, Civil or Criminal.

(11) Applications for transfers of cases from one Court to another, under Section 25 of the Civil Procedure Code.

(12) Applications for enrolment as Pleaders

(13) Orders under the Mysore Prisoners' Testimony Regulation Provided that no decree, order, sentence or decision of any Court, shall be reversed by any Judge of the Chief Court sitting alone

Provided also that it shall be compe tent for the Judge before whom any ap plication may be posted for hearing, at any time before he shall have determined the same, to refer it for hearing and deter mination by a Bench of two Judges.

And provided also that if an order is made ex parte by a single Judge, it shall be competent for that Judge to revise and alter it, after hearing both the parties

And provided further that it shall

always

always be competent for a Bench consisting of two other Judges of the Chief Court, or for the Full Bench of the said Court, upon its own motion or upon the application of any party to revise and alter any order which may be passed by a single Judge"

Civil and Revision Petitions were always posted before a bench of two Judges while Criminal Revision Petitions were either posted before a bench of two Judges or were on perusal of records disposed of by two Judges. In Criminal Revision Cases, i.e. cases in which the records were called for on perusal of Calendars or cases referred by District Magistrates orders were passed by a single Judge if the decisions of the lower Court were not interfered with but if they had to be re-versed or modified orders were passed by

by two Judges.

Since November last all Civil and Criminal Revision Petitions and Criminal Revision Cases except those referred to a Bench used to be disposed of by a single Judge under Section 16 B of the Amending Regulation of 1903, the words "applications for revision" in Civil and Criminal Cases in the said section being interpreted as including cases in which revision proceedings were initiated by the Court itself on perusal of Calendars or by the District Magistrates by references made under Section 438 of the Criminal Procedure Code

The doubt that has now arisen is whether by section 16 B of Regulation IV of 1903 the powers exercisable by a single Judge are confined to cases in which there have been "applications for revision by the parties or whether they extend equally to all Revision Petitions and Cases, Civil and Criminal

Pf

If a single Judge can dispose of such cases arising out of 'applications' made by parties there is no reason why he should not exercise the power when there has been no application If, however, the Government are of opinion that this is not in accordance with the wording of the section I am to request that the section may be amended by substituting the words "Civil and Criminal Revision cases" for "applications for revision in Civil and Criminal cases" and deleting from it the words "on such application".

I have the honorable,
Sir,
Your most obedient servant,

Registrar.

vdp

G.R.S. 26]

File No. 10

Serial No. 2

*Diary No. of letter replied to*

Letter — No. 9982 dated 21-10-04
Legis 10-2

General and Revenue Secretariat
( Legis. )
, the 21/10/04 190 .

To
The Registrar
of the Chief Court Mysore.

Date of issue do

Signed by Mr D. M. Narsinga Rao.

Sir

I am directed to acknowledge the receipt of your letter No 1128/73 dated the 16th August 1904 giving expression to a doubt whether by Section 16 B of Regulation IV of 1903 the powers exercisable by a single Judge are confined to cases in which there have been "applications for revision" by the parties or whether they extend also to the revision cases civil and criminal, and requesting that the section may be amended, if Government are of opinion that it is not in accordance with the wording of the section for a single Judge, who can dispose of cases arising out of "applications" made by parties to exercise that power when there has been no

Legis 4
25-10-04

Taken up by the Chief Court Secretary

SUBJECT.

application. ~~I am directed to say that~~

2. ~~In reply I am directed to observe as follows:-~~

No distinction was intended to be made between one kind of revision proceedings and another, i.e. between those initiated on petition and those initiated by the Court suo motu. ("applications for revision in civil and criminal cases" was intended to stand for "Revision cases civil and criminal." In other words, it was not intended that certain revision matters should be dealt with under section 16 B and others under the Rules of Practice of 1888 and subsequent years. In these circumstances the question is whether the expression "application for revision in civil & criminal cases" includes matters taken up by the Chief Court suo motu, i.e. without a petition. The letter under reply does not convey the opinion of the Chief Court on this point, but merely asks that the section be amended "if the Government are of opinion that this (the non-existence of any distinction) is not in accordance with the wording of the section."

The Explanation

List of enclosures.

Copied by V.R. 20-10-04

Examined by RR 20-10-04

3. The question being one of interpretation, I am directed to enquire

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

whether in the opinion of the Chief Court an amendment of the section is nevertheless indispensable

15.10.1904
Secretary

15/10/04

9896
14-10-04

Sl No 3

Letter No. 2620/152, dated Bangalore, 9th Nov. 1904;

From V. A. Raja Ratna Mudr. Esqr.
Registrar, Chief Court of Mysore.

To B. K. Venkataravanadajiayar Esqr.
Secretary to Govt.
Genl. & Rev. Depts.

With reference to your letter No. J. 982/Leg. 10-2 dated the 21st ultimo, I am directed to state — that the Judges are of opinion that the amendment of Section 16 B of Regulation IV of 1903 suggested in my letter No. 1128/73 dated 16th August 1904 is necessary.

I have the honor to be,
Sir,
your most obedient servant.

V. A. Rajaratna Mudr.
Registrar.

Mkn

Letter No. Pol. C. 580-1/11-1-1905 From, To,

The First Assistant to the Hon'ble
the Resident in Mysore.

Sir, Pol: No. 580 of 1905
11-1-1905

Adverting to section 16 B of the Mysore Chief Court's Regulation I of 1884 as amended by Regulation IV of 1903, I am directed to state that a doubt has now arisen whether under that section the powers exercisable by a single Judge are confined to cases in which there have been "applications for revision" by the parties or whether they can be deemed to extend equally to all revision petitions and cases, including those initiated by the Court itself on perusal of calendars or by reference from District Magistrates. The Chief Court have pointed out that if a single judge can dispose of such cases arising out of applications made by parties, there is no reason why he should not exercise that power ~~without~~ ~~and~~ when there has been no application.

2. I am accordingly to forward herewith a draft of a Regulation to amend the section in question so as to make it applicable to Civil and Criminal Revision cases generally; and to request that

that the sanction of the Government of India may be procured for its promulgation.

I have &c,

Typed 11/1/05.
Examined. 11-1-05

Enclosure
One

[Enclosure to Letter No 4.]

Draft of

A Regulation further to amend the Mysore Chief Court Regulation, I of 1884.

Whereas it is expedient further to amend the Mysore Chief Court Regulation, I of 1884 as amended by Regulations II of 1890 and IV of 1903, His Highness the Maharaja is pleased to enact as follows:-

Preamble

1. The following shall be substituted for section 16 B of the Mysore Chief Court Regulation, 1884, namely:-

Substitution of new section for section 16 B of Regulation I of 1884.

"Notwithstanding anything contained in the proviso to section 19, any judge of the Chief Court sitting alone shall have power to hear and dispose of Civil and Criminal Revision cases, and his orders and decisions in such cases shall be final. Provided that any such judge may, if he thinks fit, instead of disposing of any such case as aforesaid refer such case to a Bench of two Judges for disposal."

Power of single judge to dispose of revision cases himself or to refer the same to a Bench.

22-11-04

Typed 11/1/05.
Examined 11-1-05

—R. P. B.—4-04.—1,000.

Serial No 5

No. 1063

Letter No 1063, d/ 21-2-1905.

FROM

R. C. H. MOSS. KING, Esq., I. C. S.,

FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

Pol no 1350 d 22.2.05

To

The Dewan of Mysore.

Dated Bangalore, 21st February 1905.

Sir,

With reference to Mr. Venkatavaradiengar's letter Pol No. 580, dated the 11th January 1905, I am directed to state that the Government of India have no objection to the Mysore Chief Court Regulation, I of 1884, being further amended as proposed by the Durbar.

2. I am to request that a copy of the amending Regulation as passed into law, may be forwarded to this office for information.

I have the honour to be,

Sir,

Your most obedient servant,

First Assistant Resident

READ the following papers :— Serial No. 6.

The Copy and the papers this file will be recorded in A.

Secy 14/3/05

Serial No. 6.

No. 92578
LEGIS.: 10-6 dated 2 March 1905

ORDER THEREON:—Ordered that th ~~Draft~~ Regulation to further amend the Mysore Chief Court Regulation I of 1884,

which received the assent of His Highness the Maharaja on the 2nd day of March 1905, be promulgated.

Secy 7-3-05

For Secy. to Govt., Gen. & Rev. Depts.

To—The Compiler, *Mysore Gazette*, with a copy of Regulation No. II of 1905, for publication in three successive issues of the Gazette and for supply of 50 spare copies to this office, & the necessary entry and to be the chief [illegible].

~~MGCPB—1-3—100.~~

Copy to the Mysore Chief Court, with ref. to his letter No. 1128/73, 4/16-8-04.

Copy sd by [illegible] 9/3/05 for

2579
Legis: 10-6 10/3/05

Regulation No. II of 1905.

(Passed on the 2nd ~~5th~~ day of ~~February~~ March 1905.)

A Regulation further to amend the Mysore Chief Court Regulation, I of 1884.

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Preamble.

Whereas it is expedient further to amend the Mysore Chief Court Regulation, I of 1884, as amended by Regulations II of 1890 and IV of 1903, His Highness the Maharaja is pleased to enact as follows:-

Substitution of new section for section 16B of Regulation I of 1884.

1. The following shall be substituted for section 16B of the Mysore Chief Court Regulation, 1884, namely:-

Power of single judge to dispose of revision cases himself or to refer the same to a Bench.

Notwithstanding anything contained in the proviso to section 19, any judge of the Chief Court sitting alone shall have power to hear and dispose of Civil and Criminal Revision cases, and his orders and decisions in such cases shall be final. Provided that any such -- Judge may, if he thinks fit, instead of disposing of any such case as aforesaid, refer such case to a Bench of two judges for disposal."

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Dewan of Mysore.